

**Montana Shooting Sports Association, Inc. 15**

P.O. Box 4924 • Missoula, Montana 59806 Bill No. 549-1252 HB 234
Website: <http://www.mtssa.org> • email: mssa@mtssa.org

Asserting the Rights of Gun Owners in Montana

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February 17, 2015

Mr. Stephen H. Jose
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Dear Mr. Jose:

I am in possession of a letter from you to Montana DFWP Director Hagener, dated January 29, 2015, concerning HB 234 currently before the Montana Legislature. I have several questions about this letter, as follows:

- 1) You begin the letter couching it as a response to a letter you received from Mr. Hagener. Will you please send me a copy of that letter from Mr. Hagener? Thank you.
- 2) The funding discussed in your letter comes from the Pittman-Robertson Act (P-R) and the Dingall-Johnson Act (D-J). Please clarify whether or not construction and improvement of shooting ranges is or is not a specifically approved purpose and a specifically eligible activity under P-R and D-J.
- 3) In your letter, you declare that "it is our view" that Montana would become ineligible to receive \$27 million in P-R and D-J funds if HB 234 were to be enacted. Please clarify if this is your personal view, or the considered and resolved conclusion of the USFWS. If it is the opinion of the USFWS, please provide documentation of review of any question about HB 234 and concurrence by one or more named, specific attorney(s) within the USFWS or DOJ who have authority to issue legal opinions on behalf of the USFWS. If it is your personal opinion, please provide your authority and credentials to offer a legal analysis and opinion on behalf of the USFWS.
- 4) In your letter, you cite three different CFRs as requiring that any funds to a state under the P-R or D-J Acts must be "controlled by" and under the "administration" of the state fish and wildlife agency. You must be aware

that the Montana Shooting Range Development Act establishes in statute at 87-1-276, et. seq., M.C.A., that the Montana Shooting Range Development Program (SRDP) is under the control and administration of the Montana Department of Fish, Wildlife and Parks (DFWP) only. Since it is established by Montana law that the SRDP is under the control and administration of DFWP, please provide a court decision or other precedent that supports "our view" that funds dedicated to the SRDP would NOT be under the control and administration of DFWP.

5) If a state legislature were to enact a budget, including for its state wildlife agency, and in that budget the state were to take some funding from the wildlife agency's proposed budget for administration and put that money into enforcement, or from biology and put it into education, or from hunting and put it into fishing, is it "our view" by you or the USFWS (please clarify which) that this state oversight would violate P-R and/or D-J by putting that funding outside of the "control" and "administration" of the wildlife agency? If so, is there any discretion a state's legislature and governor may assert over how its state wildlife agency spends its money that would not be, in "our view" by you or the USFWS (please clarify which) without being in violation of the "control" and "administration" requirements of CFRs adopted under P-R and D-J? If a state wildlife agency is not totally free of restraint and oversight by its state legislature about how it spends any funds appropriated by the legislature, would it be "our view" by you or the USFWS (please clarify which) that those funds are then outside the "control" and "administration" of the wildlife agency and therefore a violation of P-R and/or D-J and the regulations adopted under authority of them?

Thank you for your answer to these questions.

Sincerely yours,

Gary Marbut, President